

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION**

BYRON TERRELL SMITH, SR.	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:20-CV-62 JMB
	)	
AMY ROSS,	)	
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court upon review of plaintiff Byron Terrell Smith, Sr.'s motion for leave to proceed *in forma pauperis*, and submission of a *pro se* complaint. For the reasons explained below, the motion will be granted, and plaintiff will be given the opportunity to file an amended complaint.

**Discussion**

Plaintiff brings this action against Amy Ross. Plaintiff identifies Ross as a nurse at the Mississippi County Detention Center. He does not indicate, nor does it appear, that he is a prisoner. Plaintiff does not specify the capacity in which he sues Ross. In the complaint, plaintiff does not identify the claims he wishes to bring against Ross, nor does he set forth any factual allegations against her. Instead, he left blank the sections of the form complaint soliciting his statement of claim, a description of the injuries he suffered, and the relief he seeks from this Court.

In consideration of plaintiff's *pro se* status, the Court will allow him to file an amended complaint. Plaintiff is advised that the amended complaint will replace the original. *See In re Wireless Telephone Federal Cost Recovery Fees Litigation*, 396 F.3d 922, 928 (8th Cir. 2005)

(“It is well-established that an amended complaint supersedes an original complaint and renders the original complaint without legal effect”). Plaintiff must type or neatly print the amended complaint on a Court-provided form, which will be provided to him. *See* E.D. Mo. L.R. 2.06(A) (“All actions brought by self-represented plaintiffs or petitioners should be filed on Court-provided forms where applicable.”). The Court will provide plaintiff with copies of the Court’s prisoner civil rights complaint form and civil complaint form, and plaintiff may choose which form he wishes to use to bring his claims before the Court.

In the “Caption” section of the complaint form, plaintiff should write the name of the defendant he intends to sue. *See* Fed. R. Civ. P. 10(a) (“The title of the complaint must name all the parties”). Plaintiff must also specify the capacity in which he intends to sue the defendant. In the “Statement of Claim” section, plaintiff should begin by writing the defendant’s name. In separate, numbered paragraphs under that name, plaintiff should set forth a short and plain statement of the facts that support his claim or claims against the defendant. *See* Fed. R. Civ. P. 8(a). Each averment must be simple, concise, and direct. *See id.* Plaintiff must state his claims in numbered paragraphs, and each paragraph should be “limited as far as practicable to a single set of circumstances.” *See* Fed. R. Civ. P. 10(b).

It is important that plaintiff clearly set forth the claims he wishes to assert against the defendant, and allege facts explaining how the defendant was personally involved in or directly responsible for harming him. *See Madewell v. Roberts*, 909 F.2d 1203, 1208 (8th Cir. 1990). Plaintiff must explain the role of the defendant, so that the defendant will have notice of what he or she is accused of doing or failing to do. *See Topchian v. JPMorgan Chase Bank, N.A.*, 760 F.3d 843, 848 (8th Cir. 2014) (stating that the essential function of a complaint “is to give the opposing party fair notice of the nature and basis or grounds for a claim.”). Furthermore, the

Court emphasizes that the “Statement of Claim” requires more than “labels and conclusions or a formulaic recitation of the elements of a cause of action.” *See Neubauer v. FedEx Corp.*, 849 F.3d 400, 404 (8th Cir. 2017). Because plaintiff is proceeding *in forma pauperis* in this action, the amended complaint will be subject to initial review pursuant to 28 U.S.C. § 1915(e)(2)(B).

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff’s motion for leave to proceed *in forma pauperis* (ECF No. 2) is **GRANTED**.

**IT IS FURTHER ORDERED** that the Clerk shall mail to plaintiff a copy of this Court’s form prisoner civil rights complaint, and a copy of this Court’s form civil complaint.

**IT IS FURTHER ORDERED** that, within thirty (30) days of the date of this order, plaintiff shall file an amended complaint in accordance with the instructions herein.

**If plaintiff fails to timely comply with this order, the Court will dismiss this action without prejudice and without further notice.**

Dated this 18th day of May, 2020.

/s/ John M. Bodenhausen  
JOHN M. BODENHAUSEN  
UNITED STATES MAGISTRATE JUDGE